

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ISAIAH GERAFFINO, LENFORD
JOHNSTON, SARA FAUST, SUKOL
PHAIROJ, CHELSEA LINDMAN,
VIRGINIA WORLEY, ROSALINA
WALTER and THOMAS CAMPBELL on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

CIVIL ACTION NO.: 07-cv-06729
(RJS)

JEAN-GEORGES ENTERPRISES, LLC;
JEAN-GEORGES MANAGEMENT LLC;
PERRY STREET PROJECT LLC;
TRIOMPHE RESTAURANT CORP. d/b/a
JEAN GEORGES RESTAURANT and
NOUGATINE; ORIGINE LLC d/b/a JOJO
RESTAURANT; SPICE MARKET LLC;
LEONARD STREET LLC d/b/a/ 66
RESTAURANT; JEAN-GEORGES
VONGERICHTEN and JOHN DOES 1-10

Defendants.

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DECLARATION OF LOIS FREEDMAN

I, Lois Freedman, under penalty of perjury, declare as follows:

1. My name is Lois Freedman. I give this Declaration based on my own knowledge for use in the proceeding specified above. I am over the age of 21 and competent to give this Declaration.

2. As the Director of Operations of Jean-Georges Management I was responsible for overseeing all five of Jean-George restaurants involved in this litigation. Those restaurants are: Spice Market, JoJo, Perry Street, 66, and Jean-Georges (the "Restaurants").

3. At the Restaurants, only the following service employees have participated in a tip pool: servers, captains, cocktail servers, bartenders, barbacks, runners, bussers, back bussers, floor bussers, coffee bussers, Door Maitre d's and Maitre d's. Not all of the restaurants had each of these positions; moreover, each Restaurant had its own tip pool arrangement (i.e. its own point system).

4. While the tip pool points differed at each Restaurant, the tip pool worked the same. Each tipped position received a certain number of "points" in the tip pool, which reflected the level of their position and the depth of the customer interaction typically required by that position. At the end of each service, the tips would be counted and a dollar value would be assigned to a tip pool point. A tipped employee would be able to simply calculate his/her tips for any particular service by multiplying his/her tip points by tip point value.

5. Each Restaurant has a General Manager.

6. The General Manager at each Restaurant does not participate in the tip pool.

7. The General Manager at each Restaurant is the only individual in the Restaurants who is able to hire, fire and/or discipline employees.

8. The General Manager at each Restaurant handles all employee scheduling matters.

9. The General Manager at each Restaurant handles all payroll matters.

10. Neither the General Manager or Maitre d' set employee compensation.

11. At the Restaurants, service employees are instructed to take a 30 minute meal break when working more than a six hour shift. During this 30 minute meal break, the Restaurants provide meals for the employees, or if they so choose, the employees can leave the Restaurants to get food, or take care of personal errands.

Spice Market

12. Spice Market opened on February 12, 2004.

13. Spice Market serves both lunch and dinner seven days a week. The typical hours of operation for lunch are 12:00 p.m. - 4:00 p.m. and for dinner 5:30 p.m. - 1:00 a.m. Spice Market also has a bar which is typically open from 12:00 p.m. - 2:00 a.m.

14. Spice Market has a seating capacity of approximately 150 people.

15. During a typical service, Spice Market has servers, bussers, bartenders, barbacks, runners, Door Maitre d's, Maitre d's, and coffee bussers in the tip pool.

16. On July 31, 2006, all of the Maitre d's were removed from the tip pool.

JoJo

17. JoJo opened in September, 2001.

18. JoJo serves both lunch and dinner. Lunch is typically served Monday through Friday from 11:30 a.m. - 3:00 pm and dinner is typically served, seven days a week, from 5:30 p.m. - 10:30 pm. JoJo has a bar which is open during lunch, brunch and dinner. JoJo is also open for brunch on Saturday and Sunday from 12:00 p.m. - 2:30 p.m.

19. JoJo has a seating capacity of approximately 85 people.

20. During a typical service, JoJo has servers, bussers, bartenders, runners, floor bussers, Door Maitre d's and Maitre d's in the tip pool.

21. On July 22, 2007, all of the Maitre d's were removed from the tip pool.

Perry Street

22. Perry Street opened on July 14, 2005.

23. Perry Street serves both lunch and dinner. Lunch is typically served Monday through Friday from 12:00 p.m. - 3:00 p.m. and dinner is typically served, seven days a week,

from 5:30 p.m. – 12:00 a.m. Perry Street is also open for brunch on Saturday and Sunday from 11:30 a.m. – 4:00 p.m.

24. Perry Street has a seating capacity of approximately 62 people.

25. During a typical service, Perry Street has servers, bussers, bartenders, runners, cocktail server, Door Maitre d's, Maitre d's and coffee bussers in the tip pool.

26. On July 22, 2007, all of the Maitre d's were removed from the tip pool.

66

27. 66 opened on May 17, 2003 and closed on April 15, 2007.

28. 66 served both lunch and dinner seven days a week. The typical hours of operation for lunch were 12:00 p.m. - 3:00 p.m. and for dinner 5:30 p.m. – 12:00 a.m. 66 had a bar which was typically open during the lunch and dinner service.

29. 66 had a seating capacity of approximately 130 people.

30. During a typical service, 66 had servers, bussers, bartenders, cocktail servers, runners, Maitre d's, Door Maitre d's and coffee bussers in the tip pool.

31. On April 15, 2007, 66 closed for business.

Jean-Georges/Nougotine

32. Jean-Georges opened on March 17, 1997.

33. Jean-Georges has two dining rooms, the main dining, typically referred to as "Jean-Georges" and the informal bar dining room, referred to as "Nougotine." The only major difference between the two dining rooms was that only Jean-Georges utilizes a captain in its service.

34. Jean-Georges, serves breakfast, lunch and dinner seven days a week.¹ The typical hours of operation for breakfast are 7:00 am – 11:00 am, lunch 12:00 pm - 2:30 pm and dinner 5:30 pm – 11:00 pm.

35. Jean-Georges has a seating capacity of approximately 135 people.

36. During a typical service, Jean-Georges has captains, servers, bussers, bartenders, barbacks, runners, Door Maitre d's, Maitre d's, back bussers and coffee/bussers in the tip pool.

37. On April 30, 2007, all of the Maitre d's were removed from the tip pool.

The Restaurants Positions

38. Servers typically set up the dining room, greet guests, present guests with menus, take and place guests' orders, refill beverages, ensure the guests' satisfaction, and assist in clearing tables.

39. Captains typically give guests their menus and take their orders and in addition, perform all of the server duties. The captains also carve the guest's food.

40. Cocktail servers typically service all food and beverage needs in the bar and lounge areas and assists in the dining room clearing and refilling beverages.

41. Bussers typically serve bread and pour water and coffee, clear and re-set tables, and assist the servers.

42. Bartenders typically take and make drink orders at the bar and for dining room guests.

43. Barbacks typically maintain all necessary products for use at the bar, assist in making drinks, clear the bar and ensure the guests' satisfaction in regards to the bar service.

44. Runners typically serve guests food and assist with clearing the table.

¹ The main dining room is closed on Sunday.

45. Coffee bussers typically engage in the regular busser duties described above and also make and deliver coffee to the guests.

46. Floor bussers typically spot check silverware and glassware prior to distributing it to all stations, and perform all of the above mentioned busser duties.

47. Back bussers typically help clear the table, assists in the service of coffee, serve the guests bread and water and also spot check glasses and silverware, and perform all of the above mentioned busser duties.

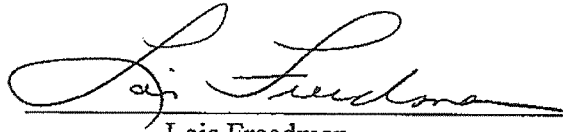
48. Door Maitre d's typically assists in the table assignments and seating of guests, meets and greets guests and assists in the beverage service of the guests in the bar and lounge area. The Door Maitre d' is always at the door and "touches" every guest in the bar and lounge area.

49. Maitre d's typically are involved in all aspects of the service and assist all of the tipped employees. The Maitre d's are always on the floor during service and "touch" every table during the service. In some Restaurants, the Maitre d's suggest and pour wine for guests and perform tableside carvings.

50. This Declaration is a voluntary statement made by me. I have carefully read this Declaration and fully understand its contents. There have been no threats made to me, express or implied, concerning my employment, potential loss of employment, or loss of any employment benefits whatsoever to induce me to make this statement. There have also been no express or implied promises of employment or other benefits to induce me to make this voluntary statement.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: July 3, 2008
New York, New York



Lois Freedman